



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD
FREEDOM OF INFORMATION ACT BRANCH
Washington, D.C. 20570

Via regular mail

November 22, 2021

Re: FOIA Request NLRB-2022-000102

Dear Mr. William H. Jones:

This is the first production of records in partial response to your request under the Freedom of Information Act (FOIA), 5 U.S.C. § 552, received on October 26, 2021, in which you request records in 54 cases, including the following 20 cases:

1. Case No. 12-CB-241636
2. Case No. 12-CB-204434
3. Case No. 12-CB-200988
4. Case No. 12-CB-278664
5. Case No. 12-CB-004627
6. Case No. 12-CA-020048
7. Case No. 12-CB-232672
8. Case No. 12-CA-262155
9. Case No. 12-CA-273175
10. Case No. 12-CB-151759
11. Case No. 12-CB-144433
12. Case No. 12-CB-268347
13. Case No. 12-CB-271248
14. Case No. 12-CB-270017
15. Case No. 12-CB-257130
16. Case No. 12-CB-183196
17. Case No. 12-CB-183188
18. Case No. 12-CB-183188
19. Case No. 12-CA-200986
20. Case No. 12-CB-005812

We acknowledged your request on October 26, 2021. In a telephone conversation with a member of the FOIA staff, you were informed that the formal records in the above listed cases would be provided to you in this initial production, and the formal records in the remaining requested cases would be provided in a supplemental response.

Pursuant to the FOIA, a search of the Agency's electronic casehandling system was conducted. This search yielded 203 pages of releasable records from 17 of the requested 20 case files, which are attached. Please note that Case 12-CA-273175 which you listed, is a duplicate of Case 12-CA 273125 and that the formal records in the latter case are included in the attached records.

After a review, I have determined that portions of the records are exempt from disclosure under Exemptions 6 and 7(C) of the FOIA (5 U.S.C. § 552(b)(6) and (b)(7)(C)). Specifically, redactions have been made to protect the privacy interests of individuals named in the records. These redactions were made pursuant to FOIA Exemption 6, which pertains to information the release of which would constitute a clearly unwarranted invasion of personal privacy, and FOIA Exemption 7(C), which pertains to records or information compiled for law enforcement purposes, the release of which could reasonably be expected to constitute an unwarranted invasion of personal privacy. 5 U.S.C. § 552(b)(6) and (b)(7)(C).

No responsive records were located in Cases 12-CB-004627 and 12-CA-020048, which closed in 2000, or in Case 12-CB-005812, which closed in 2008. Please be advised that in accordance with the Agency's record retention and disposition policy, records are retained for a six-year period, which commences at the close of the calendar year during which the case is closed. The records are then destroyed, unless they are selected for permanent retention based on their legal significance. A search of the Agency's select list of permanently retained cases confirmed that the case files that would have included the records you seek were not selected for permanent retention.

As part of our due diligence in searching for older records that pre-date our current electronic casehandling system, we also would direct search inquiries to the Agency's Regional offices to conduct manual searches for potentially responsive paper records that may still be maintained. However, due to the continuing COVID-19 pandemic, the Regional offices are operating with skeletal staff and it is not feasible at this time for our Regional staff to conduct manual searches for any paper records in cases that closed prior to 2012.

If in the future, once our Regional offices return to regular opening hours and staffing, you continue to be interested in the records in these three cases and would like us to conduct such a manual search to identify if any paper records still may exist, you may file a new FOIA request. For information on the status of the Agency's Regional offices, you may access our website at www.nlr.gov.

Fees will be assessed in our final production of records. However, for the purpose of assessing fees, we have placed you in Category D, the "all other requesters" category, because you do not fall within any of the other fee

categories. Consistent with this fee category, you will be assessed charges to recover the reasonable direct costs for searching for the requested records, except that you will not be charged for the first two hours of search. NLRB Rules and Regulations, 29 C.F.R. § 102.117(d)(2)(ii)(D). Charges for all categories of requesters are \$9.25 per quarter hour of professional time. 29 C.F.R. § 102.117(d)(2)(i). It is unlikely there will be a charge assessed for the processing of this request.

You may contact Ed Hughes, the FOIA Attorney who processed your request, at (202) 273-1773 or by email at ed.hughes@nrlb.gov, as well as the Agency's FOIA Public Liaison, for any further assistance and/or to discuss any aspect of your request. The FOIA Public Liaison, in addition to the FOIA Attorney, can further explain responsive and releasable agency records, suggest agency offices that may have responsive records, and/or discuss how to narrow the scope of a request in order to minimize fees and processing times. The contact information for the FOIA Public Liaison is:

FOIA Public Liaison
National Labor Relations Board
1015 Half Street, S.E., 4th Floor
Washington, D.C. 20570
Email: FOIAPublicLiaison@nrlb.gov
Telephone: (202) 273-0902
Fax: (202) 273-FOIA (3642)

After first contacting the Agency, you may additionally contact the Office of Government Information Services (OGIS) at the National Archives and Records Administration to inquire about the FOIA dispute resolution services it offers. The contact information for OGIS is:

Office of Government Information Services
National Archives and Records Administration
8601 Adelphi Road-OGIS
College Park, Maryland 20740-6001
Email: ogis@nara.gov
Telephone: (202) 741-5770
Toll free: (877) 684-6448
Fax: (202) 741-5769

You may obtain a review of this determination under the NLRB Rules and Regulations, 29 C.F.R. § 102.117(c)(2)(v), by filing an administrative appeal with the Division of Legal Counsel (DLC) through FOIAonline at: <https://foiaonline.gov/foiaonline/action/public/home> or by mail or email at:

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Nancy E. Kessler Platt
Chief FOIA Officer
National Labor Relations Board
1015 Half Street, S.E., 4th Floor
Washington, D.C. 20570
Email: DLCFOIAAppeal@nlrb.gov

Any appeal must be postmarked or electronically submitted within 90 days of the date of this letter, such period beginning to run on the calendar day after the date of this letter. Any appeal should contain a complete statement of the reasons upon which it is based.

Please be advised that contacting any Agency official (including the FOIA Attorney, FOIA Officer, or the FOIA Public Liaison) and/or OGIS does not stop the 90-day appeal clock and is not an alternative or substitute for filing an administrative appeal.

As stated above, you will receive a second production of requested records at a later date. While we are including your appeal rights here, in the interests of efficiency and avoiding piecemeal appeals, we request that you consider holding any administrative appeal until the Agency's final production of records. Upon the Agency's final production of records, you will receive a final determination letter that will again include information regarding your appeal rights pursuant to NLRB Rules and Regulations, 29 C.F.R. § 102.117(c)(2)(v).

Sincerely,

/s/ Synta E. Keeling

Synta E. Keeling
FOIA Officer

Attachment: (203 pages)